

## REMARKS

Claims 4, 6-8, 10, 11, 13, 14, 16 and 18-21 are pending. The present Office action withdraws claim 8 and rejects claims 4, 6-8, 10 and 11. Applicant thanks the Examiner for indicating that: claim 4 would be allowable if amended to overcome rejections under 112, 2<sup>nd</sup> paragraph; claim 10 would be allowable if amended to overcome rejections under 112, 2<sup>nd</sup> paragraph and to include all of the limitations of its base and any intervening claims; and that claims 13, 14, 16 and 18-21 are allowed.

Claims 6-8 and 11 are hereby cancelled, without prejudice, and claims 4 and 10 are amended.

Upon entry of this Amendment, claims 4, 10, 13, 14, 16 and 18-21 will be pending, and claims 4 and 10 are presented for reconsideration.

### Amendments to the Claims

Claim 4 is amended to recite that the second seal is arranged on the tubular body member, and to further recite that, if the valve axis and the sampling axis are aligned during use of the vial closure device, a valve spindle associated with the valve body prevents the gas sampling device from being inserted beyond the valve body into the vial.

Dependent claim 10 is rewritten in independent form to include all of the limitations of independent claim 6, now cancelled, and to recite, as claim 4 now recites, that, if the valve axis and the sampling axis are aligned during use of the vial closure device, a valve spindle associated with the valve body prevents the gas sampling device from being inserted beyond the valve body into the vial.

These amendments are supported, for example, by the Specification at page 14/lines 1-3 and 12-13, page 15/lines 27-30, and page 16/lines 8-12, and by Figure 2. Accordingly, Applicant submits that no new matter is introduced by the amendments.

### Rejection of Claims 4, 6-8, 10 and 11 Under 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph

Claims 4, 6-8, 10 and 11 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 6-8 and 11 are cancelled. Regarding claim 4, the Office action asks how the second seal is “arranged” on the sampling device. Regarding claim 4 and claim 10, which is amended to include the limitations of its base claim, i.e., claim 6, the Office action asserts that it is unclear how the sampling and valve axes can be disposed to prevent the

insertion of the sampling device “into the valve body.” See Office action, page 2, fourth paragraph.

Claim 4 is amended to recite that the second seal is arranged on the tubular body member (rather than on the sampling axis,) as suggested by the Examiner.

Claim 4 and 10 are each amended, in part, to recite that, if the valve axis and the sampling axis are aligned during use of the vial closure device, a valve spindle associated with the valve body prevents the gas sampling device from being inserted beyond the valve body into the vial. Applicant respectfully notes that the claims do not recite “into the valve body”, but, rather, as amended, that the valve spindle associated with the valve body (e.g., spindle (9) and the valve body (8) of Figure 2) prevents the sampling device from being inserted into the vial. In the example of Figure 2, with alignment of these axes, the sampling device (38) is blocked by the valve spindle (9).

In view of the above-described amendments and remarks, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

Rejection of Claims 6, 7 and 11 Under 35 U.S.C. § 103 (a)

Claims 6, 7 and 11 are rejected under 35 U.S.C. § 103 (a) over U.S. Patent No. 5,620,434 to Brony. Claim 6, 7 and 11 are cancelled, without prejudice, to expedite allowance.

Conclusion

In view of the amendments and remarks presented herein, Applicant respectfully requests that the rejection of claims 4 and 10 be reconsidered and withdrawn, with claims 4, 10, 13, 14, 16 and 18-21 proceeding to allowance. The Examiner is invited to call the undersigned, if the Examiner believes that a telephone conversation could be helpful in expediting prosecution of the instant application.

Respectfully submitted,

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